

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition)
of Project Land Use to Review)
the California Regional Water)
Quality Control Board, Central)
Valley Region, Orders No.)
72-235 and 72-236)

Order No. 72-13

On May 5, 1972 Project Land Use, an unincorporated association, filed a petition requesting review by the State Water Resources Control Board of Orders No. 72-235 and 72-236 adopted by the California Regional Water Quality Control Board, Central Valley Region, on April 28. The orders prescribe waste discharge requirements for two subdivision developments in Kern County.

A. The State Board having considered the petition, and the records of the Regional Board finds:

1. Project Land Use is an unincorporated association of citizens in Kern County.
2. Order No. 72-235 contains waste discharge requirements for the Eastco, Incorporated, development in Cuddy Valley, Kern County.
3. Order No. 72-236 contains waste discharge requirements for Pinon Pines, a subdivision in Cuddy Valley, Kern County.
4. Orders No. 72-235 and 72-236 are essentially identical. Each requirement prohibits any discharge of waste until there exists a public entity empowered to plan, design, finance, construct, operate and maintain a sewage system to

serve the Eastco, Incorporated, and Pinon Pines developments. The requirements also prohibit the discharge of waste from individual sewage disposal systems in certain locations due to geologic conditions after the entity is formed.

B. Specific contentions of the petition and the Board's findings concerning them are as follows:

Contention: The adoption of Order No. 72-235, Eastco, Incorporated, and Order No. 72-236, Pinon Pines, allowing waste discharges to occur in Cuddy Valley from these subdivisions was premature and retrogressive in that they violate the regional board's "guidelines" for mountain and foothill subdivisions and threaten present and future water quality.

Findings: Eastco, Incorporated, submitted a report of waste discharge to the Regional Board on July 21, 1971 proposing a discharge from a 433-lot subdivision in Cuddy Valley, Kern County. At approximately the same time the Pinon Pines Development Company proposed a 53-lot subdivision in the same general area of Cuddy Valley. The Pinon Pines Development Company submitted a report of waste discharge on December 7, 1971 for this subdivision. On December 17, 1971, the Regional Board prescribed waste discharge requirements prohibiting the waste discharge from these subdivisions after considering the information available and finding that neither proposed discharger had "... substantially fulfilled the provisions of guideline 5, section V of the Interim Water Quality Control Plan for the San Joaquin River Subbasin and Tulare Lake Subbasin." These "guidelines" set forth the information needed by the Regional Board in order to review water quality control factors related to land development in the foothill and mountainous area of the Central Valley Region.

The developers, thereafter, submitted an Environmental Assessment Report and Master Plan for Waste Disposal for the two subdivisions. These reports complied with the "guidelines" except for 5(C) in that they contained the necessary technical information. The developers did not comply with guideline 5(C) which requires a public entity endowed with all necessary powers to manage and control a community waste disposal system.

The Regional Board in considering waste discharge requirements at the April 28 meeting found that the public entity with the necessary powers had not been formed. The board prescribed waste discharge requirements for the two subdivisions and included the following prohibition in both orders:

"2. No new waste discharge will take place in the area of the proposed ... development until there exists a public entity empowered to perform and actually performing the responsibilities set forth in Finding 9 of this Order."

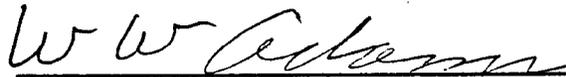
In order to discharge waste, the subdivider must establish the necessary entity as outlined in guideline 5(C) and Finding No. 9 of the Regional Board order. There was no evidence before the Regional Board nor has the petitioner submitted evidence of any effect on water quality should the discharge of waste occur after compliance with the board's guidelines and the establishment of the public entity. Since this entity must be formed to manage and control the waste discharges before any discharge occurs, the Regional Board orders do not indicate a premature or retrogressive action and do not violate the guidelines for mountain and foothill subdivisions.

C. The State Board, having considered the contention of the petitioner and the record before the Regional Board concludes that the requirements adopted by the Regional Board, in Orders No. 72-235, Eastco, Incorporated, and 72-236, Pinon Pines, are reasonable and adequate to protect the waters of the State.

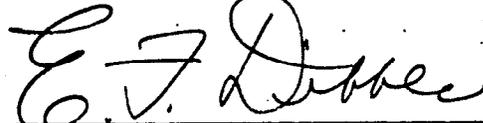
IT IS HEREBY ORDERED that the petition of Project Land Use for review of the action of the California Regional Water Quality Control Board, Central Valley Region, be denied.

Adopted as the order of the State Water Resources Control Board as a meeting duly called and held at Los Angeles, California.

Dated: July 6, 1972



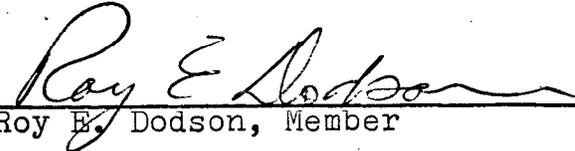
W. W. Adams, Chairman



E. F. Dibble, Vice Chairman



Ronald B. Robie, Member



Roy E. Dodson, Member



Mrs. Carl H. (Jean) Auer, Member